

**STATE BOARD OF EQUALIZATION**

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*Executive Director*

January 23, 1996

Mr. & Mrs. P--- and E--- R---  
P--- P--- S---, Inc.  
XXXX --- Road  
--- ---, CA XXXXX

***Re: Sales of Animal Feed  
SR --H XX-XXXXXX***

Dear Mr. & Mrs. R---:

This is in response to your letter dated December 2, 1995, in which you requested clarification of the sales and use tax consequences of sales of animals and animal feed.

On November 13, 1995, I responded to your letter of September 25, 1995, in which you made several inquiries regarding sales of animals and animal feed. As you explained in your letter, your business, P--- P--- S---, sells a variety of domesticated animals and pet products, including rabbit and chicken feed. In your current letter you explain the procedures that P--- P--- S--- will follow to ensure compliance with California's sales and use tax laws. You have requested that these procedures be reviewed to verify that P--- P--- S--- will be in compliance and to identify an procedures that may have been overlooked.

The first procedure you have outlined relates to the sales of animals. You state that:

“[I]t is our opinion that dwarf rabbits are not food animals, but we would like you to specifically address the taxability of these animals. P--- P--- S---, Inc. will continue to collect and pay sales tax on sales of animals such as mice, hamsters, dwarf rabbits, tropical fish, parakeets finches, parrots, etc. since none of these constitute food for human consumption, nor could they be considered ‘game birds.’ Sales of full-size rabbits or any other animal specifically listed in Regulation 1587 or Tax Tip Pamphlet 66 will not be taxed and separate receipts will be kept to support these sales.”

As explained in my letter of November 13, 1995, Pamphlet 66 includes rabbits in its list of animals which are considered by the Board to be “food animals.” In addition, I cited Business Taxes Law Guide (BTLG) Annotation 110.0180 (10/11/50) which explains that, sales of rabbits are not subject to sales tax even if the animals are purchased exclusively for laboratory

purposes. Thus, rabbits are considered to be animal life of a kind the products of which ordinarily constitute food for human consumption, and sales of rabbits, including dwarf rabbits, will not be subject to sales or use tax regardless of whether or not the rabbits or its products are actually used as food for human consumption.

You are correct that sales tax is required on sales of mice, hamsters, tropical fish, parakeets, finches, parrots and other animals which are not considered game birds or animal life of a kind the products of which constitute food for human consumption. Your procedure to maintain separate receipts for sales of animals which are listed as food animals in Regulation 1587 or Board of Equalization Tax Tip Pamphlet 66 is prudent. While not specifically required, it is also recommended that the segregated receipts should identify the purchaser, the date of purchase, and the type of animal purchased.

The next procedure P--- P--- S--- has implemented involves sales of animal feed suitable for both food and non-food animals. You state that:

“With regard to sales of food for both food and non-food animals, we will continue to charge sales tax. If a customer requests relief from sales tax, we will require them to sign a feed exemption certificate identical to the one specified in Regulation 1587 before such relief is given. In addition, sales slips will reference the certificates as required by Regulation 1587.”

Your procedure to reference feed exemption certificates on sales invoices issued in conjunction with purchases of feed for both food and nonfood animals is also prudent. However, Regulation 1587(c)(3) explains that “invoices on sales claimed as exempt should specify the names of the purchasers in order to relate them to the resale certificates.” Accordingly, we recommend that these sales invoices not only identify the purchaser, but also reference the date of purchase, the purchaser’s seller’s permit number, if any, and the product sold.

I hope this additional information will be helpful to you. If you have any further questions, please feel free to contact this office again.

Sincerely,

Patricia Hart Jorgensen  
Senior Staff Counsel

PHJ:cl

cc: --- --- District Administrator